

**REMARKS/ARGUMENTS**

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

Claim 17 has been amended so as to overcome the examiner's objection raised on Page 2 paragraph 2 of the official action.

In response to the examiner's rejection of previously submitted claims 1 and 10-17 under 35 U.S.C. 103 as being unpatentable over UK 1 482 724, Applicant respectfully requests the examiner to reconsider the rejection for the reasons set forth hereinbelow.

Initially, Applicant respectfully traverses the examiner's position regarding her interpretation of Page 2 lines 35-51 of UK '724. Contrary to the examiner's position, a fair reading of that portion of the UK patent clearly requires a heat treatment in order to obtain spheroidal graphite. In this regard the examiner's attention is drawn to Page 2 lines 35-51. The controlled alloy composition of the present invention results in a spheroidal graphite product in an as cast condition. This is clearly not the case with regard to the alloy of the UK '724. Applicant's claim 1 recites an alloy "consisting essentially of". The alloy includes as positive constituents copper, silicon, molybdenum, aluminum, nickel, zirconium, magnesium and sulfur in addition to iron. The consisting essentially of

language is closed language. The alloy of the '724 patent includes additions of vanadium, niobium, titanium, boron and manganese. All of these alloying elements effect the as cast structure of the '724 patent which requires the subsequent heat treatment in order to obtain a spheriodal graphite composition. The examiner in her rejection has not fairly interpreted the '724 patent nor has the examiner appreciated the closed language of "consisting essentially of" as set forth in claim 1 in the instant case.

With regard to dependent claim 13, the examiner asserts that while the UK does not teach aluminum-zirconium as a prealloy immediately added before the alloy melt if cast, in her opinion this is not a patentable distinction. Applicant respectfully traverses this position by the examiner. The paragraph bridging Pages 2 and 3 of the instant specification clearly points out the beneficial results obtained by adding aluminum and zirconium as a prealloy immediately before the alloy melt is cast. Accordingly, it is believed that the specification contains adequate support for the unexpected results obtained in accordance with the process of claim 13. Likewise, with regard to claim 14, the paragraph bridging Pages 3 and 4 of the instant specification clearly demonstrate the advantages obtained by heating the alloy melt to over 1460°C.

The examiner has offered no evidence to support her conclusionary statement as set forth in paragraph No. 6 of the office action.

Finally, the examiner has not articulated her basis for the rejection of the combination claim, claim 15 as previously submitted. Claim 15 has been further amended so as to set forth with more specificity the combination for the present invention. Claim 13 has been amended so as to depend from claim 15. Clearly the sum total teachings of claims 13 and 15 are not at all suggested by the cited prior art references.

In light of the foregoing, it is submitted that all of the claims as pending patentably define over the art of record and an early indication of same is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein  
patentably define over the art relied on by the Examiner and  
early allowance of same is courteously solicited.

If any fees are required in connection with this case, it  
is respectfully requested that they be charged to Deposit  
Account No. 02-0184.

Respectfully submitted,

Werner Menk

By



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I, Rachel Piscitelli, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on January 26, 2006.

